

**City of Gardner
Conservation Commission**



**Minutes of the Meeting of
May 9, 2016, 6:30 p.m.
Second Floor Meeting Room, City Hall Annex**

Members present:

David Beauregard, Duncan Burns, Jane Cullen, Chairman Greg Dumas, Donna Lehtinen, and David Orwig. Also present was Conservation Agent Jeff Legros.

Members absent:

Norman Beauregard

PUBLIC HEARINGS

6:30 Chairman Dumas requested to go out of order in the interest of time because the applicant of the first scheduled Public Hearing, Mr. Conrad Donell, was not yet in attendance. There was no opposition from the public attendees or Commission members.

6:30 Chairman Dumas opened the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Notice of Intent** filed by **Nancy Collett**, 68 Kendall Pond Road West, represented by R.J.'s Tree and Yard, for a proposed project at 68 Kendall Pond Road West to include the removal of several trees and the removal and installation of a shed. The proposed work is within 100-feet of the bank of Kendall Pond.

R.J. D'Amato, R.J.'s Tree and Yard described the project to include the removal of approximately 20-30 trees that are damaged, dead or dying, and/or causing a safety hazard to property. Mr. D'Amato demonstrated the location and distances relative to the associated wetland resource area and buffer zones on a map/plan. He stated that the trees would be cut as close to the ground as possible and that the stumps would remain in place so that there are no exposed soils or destabilization. The work will be done during dry conditions on stable soils.

6:44 A motion was made by D. Burns to close the Hearing. The motion was seconded by D. Beauregard and voted unanimously all in favor.

6:45 Chairman Dumas opened the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Notice of Intent** filed by **John Cestone**, 61 Kendall Pond Road East, represented by R.J.'s Tree and Yard, for a proposed project at 61 Kendall Pond Road East to include the removal of several trees. The proposed work is within 100-feet of the bank of Kendall Pond.

R.J. D'Amato, R.J.'s Tree and Yard described the project to include the removal of approximately 20-30 trees that are damaged, dead or dying, and/or causing a safety hazard to property. Mr. D'Amato demonstrated the location and distances relative to the associated wetland resource area and buffer zones on a map/plan. All of the trees are located outside of the 30-foot 'No Disturb' Zone. He stated that the trees would be cut as close to the ground as possible and that the stumps would remain in place so that there are no exposed soils or destabilization. The work will be done during dry conditions on stable soils.

- 6:50** A motion was made by D. Beauregard to close the Hearing. The motion was seconded by D. Burns and voted unanimously all in favor.
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- 6:51** Chairman Dumas resumed the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Notice of Intent** filed by **Conrad Donell**, 106 Lancaster Road, Shirley, MA, remediation of a Wetland and Certified Vernal Pool and its associated protective buffer zone as required by an enforcement order issued by the Gardner Conservation Commission under the Gardner Wetlands Protection Ordinance (City Code 650).

This hearing was continued from the Meeting of April 25, 2016, pending a site visit to confirm the boundaries of the Restoration Area. The area was staked following a request of the Commission at that meeting and a site visit was attended by Mr. Crossman, Agent Legros and members of the Commission on Saturday, May 7, 2016. The area was clearly marked and a plan was provided to the Commission detailing the 100-foot buffer zone of the Certified Vernal Pool.

A scope of work and cost proposal was submitted by Tighe & Bond on April 26, 2016, for Phase II of the Peer review to include monitoring and assessment of the restoration work. Agent Legros presented the proposal to the Commission and the proponents for review.

Mr. David Crossman expressed concern that the cost of services was too high and that individual tasks were not itemized by cost. He and Mr. Donell also expressed concern that some tasks may be unnecessary.

Chairman Dumas agreed that the proposal should be itemized by task so that each task can be assessed and required as needed.

- 7:15** A motion was made by D. Burns to continue the hearing pending request and receipt of an itemized peer review proposal from Tighe & Bond. The motion was seconded by D. Beauregard and voted unanimously all in favor.
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- 7:16** Chairman Dumas opened the joint Public Hearing under MGL, Ch. 131, § 40,

Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Notice of Intent** filed by the City of Gardner, for the installation of a Public Access Dock at Kendall Pond to be located on City property (H17-13-4). The proposed work is within 100-feet of the Bank of Kendall Pond and a Bordering Vegetated Wetland. No dredging, fill, or other negative impacts to a wetland resource area will occur.

Agent Legros described the project and presented the project plans and Chapter 91 Simplified Waterways License Application to the Commission for review. He stated that he did not anticipate any impacts as a result of this project and that no soils would be altered or exposed in any way.

7:25 A motion was made by J. Cullen to close the hearing. The motion was seconded by D. Burns and voted unanimously all in favor.

MEETING

Guests & Visitors

Nancy Collett, Kendall Pond Resident, KPBA; **John Cestone**, Kendall Pond Resident, KPBA; **Janet Morrison**, Land Conservation Consultant; **R.J. D'Amato**, R.J.'s Tree and Yard; **David Crossman**, B&C Associates, Inc; **Conrad Donell**, Trustee, Sunshine Realty Trust.

Order of Conditions

6:44 A motion was made by D. Burns to issue a standard Order of Conditions to Nancy Collett for work at 68 Kendall Pond Road West to include the removal of several trees and removal and installation of a shed. The motion was seconded by D. Orwig and voted unanimously all in favor.

6:50 A motion was made by D. Burns to issue a standard Order of Conditions to John Cestone for work at 61 Kendall Pond Road East to include the removal of several trees. The motion was seconded by D. Orwig and voted unanimously all in favor.

7:26 A motion was made by J. Cullen to issue a standard Order of Conditions to the City of Gardner for the installation of a Public Access Dock on City property (H17-13-4) on Kendall Pond. The motion was seconded by D. Burns and voted unanimously all in favor.

Minutes

7:27 A motion was made by D. Orwig to table the Meeting Minutes of April 25, 2016 until the meeting of May 23, 2016 to allow for more time to review. The motion was seconded by J. Cullen and voted unanimously all in favor.

Request for Determination of Applicability

7:28 The Gardner Conservation Commission resumed the joint Public Meeting under

MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Request for Determination of Applicability** filed by **Pan Am Railways**, represented by Keith Morris, Environmental Consultant, related to work located along the Pan Am Railways Right-of-Way, to be conducted under a Vegetation Management Plan (VMP). The Commission shall determine whether the boundaries of resource areas depicted on the plan and/or maps are accurately delineated.

Agent Legros again notified the Commission on behalf of the applicant that a site visit has not yet been able to be scheduled despite multiple requests. Mr. Morris has again requested that the Commission continue this RDA meeting until a site visit can be coordinated and conducted with himself, the agent, and a representative of Pan Am Railways.

- 7:29** A motion was made by D. Burns to continue the RDA (#2016-3-8) until the Meeting of May 23, 2016 or until a site visit may be conducted by the Conservation Agent to confirm resource area delineations. The motion was seconded by D. Orwig and voted unanimously all in favor.

Request for Certificate of Compliance

None

Enforcement Order

- 7:30** Sunshine Realty Trust, Conrad Donell Trustee, Sapphire Park at Pearl Street and Shawn Avenue (*Continued from Meeting of April 25, 2016*):

- Status Update: Notice of Intent – Vernal Pool Violation Remediation

A site visit was conducted by the Commission, Agent and Wetland Scientist confirming the boundaries of the restoration area. The Commission is satisfied with the restoration area as defined on site and on the plan dated

- Peer Review – Phase II

Peer review scope of work proposal will be requested with itemized tasks as described above.

Emergency Certification

None

Presentations

- 7:35** Janet Morrison, Land Conservation Consultant – *Landscape Partnership Project*
Ms. Morrison described the Landscape Partnership Grant awarded to the City and other project partners for the acquisition of lands within Winchendon and Gardner, including the 246 Acre Alisauskas Property located off of Howard Street.

As part of the Grant award the City will purchase the Alisauskas property as Conservation land. The City will be reimbursed approximately \$255,000.00 of the 295,000.00 purchase. The City will also incur approximately \$20,000.00 to \$30,000.00 in due diligence costs. The total net expense to the City is anticipated to be between 60,000.00 - \$75,000.00 after reimbursable costs.

Ms. Morrison asked the Commission for their support of the project and encouraged them to express their support to the Mayor and City Council. She also recommended that they express their willingness to accept ownership of the property as conservation lands.

- 8:05** A motion was made by D. Beauregard to express the Commission's support of the project in the form of a letter to the Mayor and to affirm with this vote, their willingness to accept ownership of the Alisauskas properties as conservation lands should such lands be acquired under the Landscape Partnership grant program. The motion was seconded by D. Lehtinen and voted unanimously all in favor.

New Business

- **Landscape Partnership Grant Award – Commission letter to City Council requesting their support for funds to be expended and reimbursed**

Agent Legros stated that he will write a letter on behalf of the Commission expressing their support for the project and asking for the support of the Mayor and City Council.

- **Sapphire Park Phase I Completion Approval, DEP #160-0511 Special Condition**

Mr. Donell should seek approval from the Zoning Board of Appeals subject to their Special Permit guiding the project and should complete all work within Phase I prior to seeking approval to work within Phase II of the project.

- **Report of possible work within wetlands - 50 Dyer Street**

A report of work within the buffer zone of a protected wetland resource area has been brought to the Agent's attention. Agent Legros is working to contact the property owner to facilitate stabilization and remediation of the area.

Old Business

- **Pitcherville Road, Hubbardston – Non-hazardous fill (potential project)**

No update is available at this time.

- **Report of possible work within wetlands - 804 Whitney Street**

Agent Legros communicated with the DEP regarding the complaint and assessed the property to the best of his ability without trespassing and did not find any

work requiring further action. A letter or informational pamphlet notifying the property owner of the requirements of the Wetlands Protection Act will be sent.

Adjournment

8:30 Motion to adjourn was made by J. Cullen. The motion was seconded by D. Burns and voted unanimously all in favor of adjournment.

Respectfully submitted,

Jeffrey D. Legros, Conservation Agent

All materials used at the meeting are available for viewing at the office of the Conservation Agent, Room 202 of the City Hall Annex.

Minutes are available as follows:

- Minutes are available on the City of Gardner website (www.gardner-ma.gov) under Conservation Commission.
- By appointment or request in Conservation Agent's office, Room 202 of the City Hall Annex
- Community Development & Planning office, Room 201 of the City Hall Annex